

Application No. 10/773,946

OCT 17 2006

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Office Action mailed July 17, 2006. In that Office Action, claims 1-17 were examined, and all claims were rejected. More specifically, claims 1-17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; claims 1-3, 6, 7, 12, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "XML Linking" by Steven J. DeRose, in view of "Efficient Supporting XML Query and Keyword Search in Relational Database Systems" by Wan et al.; and claims 4, 5, 8-11 and 14-17 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested.

In this Response, claims 1-3, 5-7, 9, 12, and 15 have been amended; new claims 18-23 have been added; and claims 4, 8, 14, have been canceled. Therefore, claims 1-3, 5-7, 9-13, and 15-23 remain present for examination.

On August 30, 2006 applicant's representative, Scott Weitzel, discussed this matter with the examiner during a telephonic interview. The summary of the discussion is provided in the objections and rejections below.

Abstract Objection

The examiner objects to the abstract. A replacement abstract is provided herein that is believed to be compliant. Applicant respectfully requests withdrawal of the objection.

Claim Objections

Claims 4, 5, 8-11 and 14-17 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has so amended the claims. More specifically, claim 1 has been amended to include the limitations of claim 4, claim 4 has been cancelled, and claim 5 now depends from amended claim 1. Claim 6 has been amended to include the limitations of claim 8, claim 8 has been cancelled, claim 9 has been amended to

Application No. 10/773,946

depend from claim 6, and claims 10-11 depend from amended claim 9. Claim 12 has been amended to include the limitations of claim 14, claim 14 has been cancelled, and claim 15 has been amended to depend from claim 12. Claims 16-17 depend from amended claim 15. Applicant believes that claims 1-3, 5-7, 9-13, and 15-23 are in allowable form and respectfully requests allowance of said claims.

Claim Rejections – 35 U.S.C. § 112

Claims 1-17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner only provides specific objections to claims 1, 6, and 12; 4, 8, and 14; and 2, 5, and 15. Claims 4, 8, and 14 are cancelled herein.

On August 30, 2006, applicant's representative discussed the objection to 1, 6, and 12; 4, 8, and 14; and 2, 5, and 15 with the examiner. A consensus was reached in which an amendment incorporating language specifying the response taken upon the alternative condition (i.e., *finding* a node in a branch for each parent/child relationship in a path and when the properties of the current end node in a path *do* match the properties of the end node in a path being traversed) would place the claims in allowable form. The applicant has so amended the claims. Accordingly, claims 1-3, 5-7, 9-13, and 15-17 are believed to be in allowable form and withdrawal of the rejection to said claims is respectfully requested.

Applicant believes the unamended claims contain patentable subject matter and reserves the right to file a continuation incorporating broader claim language.

Claim Rejections – 35 U.S.C. §103

Claims 1-3, 6, 7, 12, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "XML Linking" by Steven J. DeRose (herein, "DeRose"), in view of "Efficient Supporting XML Query and Keyword Search in Relational Database Systems" by Wan et al., (herein, "Wan").

During the August 30, 2006 interview with the applicant's representative the art of record was discuss but no consensus was reached. However, the examiner stated that claims 4-5, 8-11, and 14-17 are allowable if rewritten in independent form to incorporate the limitations of all base and any intervening claims (*see*, 7/17/2006 Office Action, page 8). Applicant has so amended

Application No. 10/773,946

the claims (*see*, Claim Objections, *supra*) and, accordingly, requests withdrawal of the rejection to said claims.

Applicant believes the art of record fails to teach schemaless generation of an XML payload and reserves the right to file a continuation incorporating broader claim language.

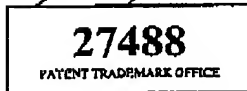
Conclusion

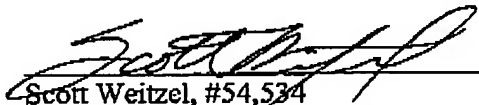
It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: 10/17/06





Scott Weitzel, #54,534
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
303.357.1656